

**OPINION  
62-75**

March 9, 1962 (OPINION)

COUNTY LIBRARY

RE: Board of Directors - Mileage

This is in reply to your letter of February 23, 1962, in regard to the payment of mileage to the Board of Directors of the Ward County Public Library established pursuant to chapter 40-38 of the North Dakota Revised Code of 1943.

You call our attention to that part of section 40-38-03 of the North Dakota Century Code which states:

. . . . No compensation shall be paid or allowed to a director. . . . "

You inform us that you have directors on this board from the southern and northern part of the county who must drive one hundred (100) miles round trip to attend these meetings, and that it is the feeling of the commissioners that they should be paid mileage for their travel.

Considering the factual circumstances you present, it is perhaps desirable that the travel to and from the further reaches of the county be made feasible for the public spirited citizens who wish to take part in the direction of the library services for the county.

Consequently, it is our opinion in this instance, that the actual and necessary expenses of these public officers which are incurred in performance of their official duties are distinct from and not included within the term "compensation." We believe, since the Code does not specifically indicate otherwise, that payment of mileage to the directors attending monthly meetings would constitute "expense reimbursement" rather than "compensation."

LESLIE R. BURGUM  
Attorney General